

REMARKS

Claims 145-147 and 149-154 are pending in the present application. Claims 143, 144, 148 and 155-160 are withdrawn. Claims 145-147 and 154 are currently amended. No new matter is added.

Amendment of the originally filed claims, or cancellation of any claims, should in no way be construed as an acquiescence, narrowing, or surrender of any subject matter. The amendments are being made not only to point out with particularity and to claim the present invention, but also to expedite prosecution of the present application. Applicants reserve the right to prosecute the originally filed claims further, or similar ones, in the instant or subsequently filed patent applications.

Specification

The Examiner states that the title of the invention is not descriptive. Applicants have amended the title of the application.

Applicants have amended the specification to conform with the use the trademarks in the instant application. Applicants have also corrected several typographical errors including the spelling of ZENAPAX®, SIMULECT®, and ENCODE. Reconsideration of the objections to the specification is requested.

Priority

Applicants have amended the first paragraph of the application to recite the status of the parent applications.

The Examiner has acknowledged that the instant application is entitled to priority to USSN 09/249,011 for combining immunoglobulins specific to B7-1 and B7-2 for treating transplant recipients with certain immunosuppressive agents as claimed in amended claim 145 of the instant application. In an effort to expedite prosecution and for examination purposes only, Applicants rely on the filing date of the instant application for the remaining claims. Applicants reserve the right to establish the benefit of an earlier priority date at a later time.

Rejection under 35 U.S.C. § 112

The Examiner has rejected claims 145-147 and 149-154 under 35. U.S.C. § 112, first paragraph as alleged failing to adequately describe the invention. Specifically, the Examiner asserts that “[t]he specification as originally filed does not provide support for the invention as now claimed: the phrase of ‘at least one’ in the context of the ‘immunoglobulin specific to B7-1/B7-2/calcineurin inhibitor, steroid and immunosuppressive agent that arrest the growth of immune cells, methotrexate, CD40 pathway inhibitor, transplant salvage pathway inhibitor, IL-2 receptor antagonist, and analogs thereof,’ [and] ‘cyclosporin A or PK506.’”

Applicants respectfully traverse the rejection. One of skill in the art would readily understand that the Applicant was in possession of the invention as claimed, specifically, that one or more claimed inhibitors may be used in carrying out the claimed methods. However, in an effort to expedite prosecution, Applicants have amended claims 145-147 and 154 to remove the phrase “at least one.” Applicants believe that amendment to the claims obviates the rejection. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. § 102

The Examiner has rejected claims 145-147 and 149-154 under 35 U.S.C. § 102(b)(e) as allegedly anticipated by Sayegh et al. (U.S. Patent No. 6,280,957). The Examiner asserts that “Sayegh et al. teach methods of inhibiting transplant rejections, including combinations with one or more antibodies directed against B7-1 and B7-2 in combination with other immunosuppressive agents such as cyclosporin A and rapamycin.” Applicants respectfully traverse the rejection.

The standard for anticipation under 35 U.S.C. § 102 is that “[a] claim is only anticipated if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP 2131.

Sayegh et al. discloses a method wherein the “main strategies include: administration of inhibitors of the CD40 ligand-CD40 [interaction] (and optionally an inhibitor of the CD28-B7 interaction) and transplantation of tolerance-inducing stem cells, e.g., bone marrow stem cells.” (See column 7, line 66 to column 8, line 3 of Sayegh et al.) Sayegh et al. does not teach or suggest a method wherein an immunoglobulin specific to B7-1 and an immunoglobulin specific

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to B7-2 are administered to a transplant recipient independent of an inhibitor to CD40 or CD40 ligand. Sayegh et al., therefore, does not anticipate the claimed invention.


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CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable consideration of the application is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at (617) 832-1738. If any fees are due, the Commissioner is hereby authorized to credit any overpayment or charge any deficiencies to Deposit Account No. **Deposit Account No. 06-1448, WYS-004.01.**

Respectfully submitted,
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